IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD APRIL 2007 / 13TH CHAITHRA 1930

Crl.MC.No. 1081 of 2007()

CRMP.157/2007 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVUR

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PETITIONER:

DOLPHIN, D/O.MARCILY,
AGED 38 YEARS, THEKKINEDATH HOUSE,
CHENDAMANGALAM.

BY ADV. SRI.S.RAJEEV

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM (CRL.M.P.NO.157/2007 PENDING ON THE
FILE OF THE JFMC, N.PARAVUR).

2. ANTONY, S/O.LONAPPAN, AGED 44 YEARS,
KOMBARA HOUSE, ALUVA.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.1081 OF 2007

Dated this the 3rd day of April, 2007.

ORDER

The short grievance of the petitioner is that though she had filed a petition under Section 12 of the Protection of Women from Domestic Violence Act (hereinafter referred to as the `D.V Act') as early as on 19.01.2007, the learned Magistrate is unnecessarily delaying the proceedings. Notice was ordered to be issued to the respondent only on 16.03.2007 and the case now stands posted to 16.04.2007. The unjustified delay in disposal is virtually denying to the petitioner the relief which she is entitled under the provisions of the D.V Act.

2. I must mention that there is merit in the grievance raised by the petitioner. The learned Magistrate appears to have treated the petition as a complaint under the Criminal Procedure Code. The petitioner is not a complainant. She is only a petitioner under Section 12 of the D.V Act. No criminal offence as such is involved at the moment. The D.V Act is a piece of legislation under which civil rights are given to a victim of domestic violence. Under Section 12 of the D.V Act, a petition is filed claiming such civil reliefs though the reliefs are to be granted through the structures under the Criminal Procedure Code. Any Magistrate dealing with an application under Section 12 of the D.V Act must understand the ambit, scope and

nature of the Act and the reliefs that are grantable under the D.V Act. No Magistrate can afford not to imbibe the spirit of expedition which he is expected to imbibe under Section 12 (3), 12(4) & 12(5) of the said Act. I need only mention that I expect the learned Magistrate to dispose of the petition filed by the petitioner as expeditiously as possible - at any rate, within a period of two months from 16.04.2007, the date to which the case now stands posted. The petitioner has a further grievance that her claim for interim relief under Section 23 of the D.V Act read with Section 19 of the Act has also not been taken up for consideration by the learned Magistrate. Needless to say, that the said request must also be considered expeditiously and appropriate orders passed after 16.04.2007.

3. This Crl.M.C is, in these circumstances, allowed in part. The above observations/directions are issued.

4. Hand over a copy of this order to the learned counsel for the petitioner for immediate production before the learned Magistrate.

R.BASANT
JUDGE

rtr/